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UNCLAS SECTION 01 OF 02 KINSHASA 001796

SIPDIS

FOR CA/VO/CI K. DOHERTY; CA/OCS/AF

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SUBJECT: CONGO-KINSHASA INTERNATIONAL ADOPTION INFORMATION

REF: STATE 194945

1. PER REFTEL, POST PROVIDES THE FOLLOWING INFORMATION ON ADOPTION IN THE DEMOCRATIC REPUBLIC OF THE CONGO (DRC). RESPONSES ARE KEYED TO LETTERED QUESTIONS IN PARAGRAPH 6 OF REFTEL.

A. THE MINISTRY OF JUSTICE IS THE GOVERNMENT AUTHORITY FOR ADOPTION MATTERS IN CONGO-KINSHASA. WHILE THERE IS NO SPECIFIC BRANCH WITHIN THE MINISTRY THAT HANDLES THIS SUBJECT, ALL ADOPTIONS ARE PROCESSED THROUGH COMPETENT COURTS THAT ARE UNDER THE AUTHORITY OF THE MINISTRY OF JUSTICE. THERE IS NO SINGLE PERMANENT PUBLIC CONTACT AT THE MINISTRY. PROSPECTIVE ADOPTING PARENTS SHOULD CONTACT THE COURT HAVING JURISDICTION OVER THE PLACE OF RESIDENCE OF THE ADOPTEE.

B. ADOPTING PARENTS MAY BE MARRIED COUPLES, SINGLE PERSONS, WIDOWS OR WIDOWERS OR DIVORCEES. SINGLE PERSONS, WIDOWS OR WIDOWERS AND DIVORCEES MAY NOT ADOPT A CHILD OF THE OPPOSITE SEX UNLESS THE COURT GRANTS AN EXEMPTION. COUPLES SHOULD HAVE BEEN MARRIED FOR AT LEAST FIVE YEARS AND BE AT LEAST 15 YEARS OLDER THAN THE INTENDED ADOPTEE. THIS "15-YEAR RULE" MAY BE WAIVED IF THE ADOPTEE IS A NATURAL CHILD OF ONE OF THE PARENTS. ANY PERSON WHO HAS A PRIOR HISTORY OF CHILD ABUSE IS NOT PERMITTED TO ADOPT. THERE IS NO AGE LIMIT FOR ADOPTING PARENTS. NO COUPLE MAY ADOPT MORE THAN THREE CHILDREN UNLESS A SUBSEQUENT PROSPECTIVE ADOPTEE IS THE BIOLOGICAL CHILD OF ONE OF THE PARENTS. NO ADOPTIVE PARENT MAY MARRY THE ADOPTED CHILD. THERE IS NO MEDICAL INELIGIBILITY GROUNDS FOR ADOPTIVE PARENTS.

C. PROSPECTIVE ADOPTIVE PARENTS NEED NOT BE PERMANENT OR LONG-TERM RESIDENTS OF THE DRC.

D. IT CAN TAKE FROM A MINIMUM OF THREE MONTHS TO A MAXIMUM ONE YEAR TO COMPLETE THE ADOPTION PROCESS FROM CHILD MATCHING TO VISA ISSUANCE.

E. THERE ARE NO ADOPTION AGENCIES IN DRC. HOWEVER, ORPHANAGES MUST BE LICENSED OR ACCREDITED BY THE GOVERNMENT. IT IS CUSTOMARY AND ACCEPTED PRACTICE TO ENGAGE CONGOLESE LAWYERS TO CARRY OUT ADOPTION PROCEEDINGS. LAWYERS ARE AUTOMATICALLY ACCREDITED BY THE GOVERNMENT BY VIRTUE OF THEIR PROFESSIONAL TRAINING.

F. COURTS FEES FOR AN ADOPTION CASE AVERAGE BETWEEN \$100 AND \$300. LAWYERS FEES CAN RANGE FROM \$1,000 TO \$2,500. FEES CAN BE KEPT TO A MINIMUM IF, PRIOR TO THE FIRST CONSULTATION, ADOPTING PARENTS SECURE ANY REQUIRED DOCUMENTS SUCH AS BIRTH, DEATH, MARRIAGE AND RELEVANT COURT RECORDS.

G. THERE IS A KEY LEGAL DIFFERENCE BETWEEN CONGOLESE AND AMERICAN OR OTHER WESTERN ADOPTION. WHILE ADOPTION EXISTS AND IS LEGAL IN CONGO, THE LAW ALSO PROTECTS THE LINK TO THE BIOLOGICAL FAMILY. THEREFORE, NO ADOPTION IS EVER CONSIDERED A COMPLETE SEVERANCE FROM THE BIOLOGICAL FAMILY. THE ROOTS OF THIS UNIQUE CHARACTER OF THE LAW STEM FROM THE FACT THAT MOST LOCAL ADOPTIONS RESULT FROM POOR FINANCIAL CIRCUMSTANCES WITHIN A FAMILY AND NOT NECESSARILY THE TRUE ORPHAN STATUS OF A CHILD. THIS UNIQUE PROTECTION, HOWEVER, DOES NOT INTERFERE WITH ADOPTION PROCEDURES NOR DOES IT RENDER LEGAL ADOPTIONS IN DRC INVALID FOR U.S. VISA ISSUANCE. THERE ARE NO LAWS PROHIBITING FOREIGN NATIONALS FROM ADOPTING CONGOLESE CHILDREN. THE ADOPTION PROCESS IN DRC HAS THREE STEPS:

- STEP ONE: OBTAINING CONSENT.
THE COURT WILL REQUIRE CONSENT TO THE ADOPTION BE SETTLED BEFORE GRANTING A JUDGMENT. BIOLOGICAL PARENTS, OR OTHER FAMILY MEMBERS IF ONE OR BOTH PARENTS ARE DECEASED, MUST GIVE THEIR CONSENT. IF NO FAMILY MEMBERS ARE IDENTIFIED, THE COURT WILL STEP IN TO DETERMINE CONSENT. ANY CHILD OVER THE AGE OF 15 MUST GIVE HIS OR HER OWN CONSENT.

- STEP TWO: THE HEARING.
AFTER OBTAINING THE PROPER CONSENT, THE PROSPECTIVE ADOPTING PARENTS REQUEST A HEARING IN OPEN COURT. ALONG WITH THE REQUEST FOR HEARING, THE ADOPTING PARENTS MUST SUBMIT COPIES OF THEIR BIRTH CERTIFICATES AND THE BIRTH CERTIFICATE OF THE PROSPECTIVE ADOPTEE. THE COURT WILL REQUIRE PROOF THAT ANY AND ALL INTERESTED FAMILY MEMBERS HAVE BEEN INFORMED OF THE ADOPTION AND HAVE RECEIVED NOTICE OF THE COURT HEARING. THE ADOPTING PARENTS AND PROSPECTIVE ADOPTED CHILD (IF OVER AGE

10) MUST APPEAR PERSONALLY IN COURT BEFORE THE JUDGE. OTHER INTERESTED PARTIES MAY ATTEND OR SUBMIT DOCUMENTS TO THE COURT. AFTER THE INITIAL HEARING, THE COURT CONDUCTS AN INVESTIGATION TO DETERMINE THAT ALL CONDITIONS HAVE BEEN MET AND THAT ALL DOCUMENTS SUBMITTED ARE LEGITIMATE.

- STEP THREE: THE JUDGEMENT.
ONCE THE INVESTIGATION IS COMPLETED AND ALL REQUIREMENTS HAVE BEEN SATISFIED, THE COURT WILL ISSUE A JUDGMENT OF ADOPTION. THE DATE OF THE ADOPTION WILL BE THE DATE OF THE FIRST COURT APPEARANCE. THE ADOPTED CHILD'S NAME ON THE JUDGMENT WILL INCORPORATE HIS/HER ORIGINAL NAME ALONG WITH THE NEWLY ADOPTED FAMILY NAME. A CHILD UNDER AGE 18 WILL TAKE THE NATIONALITY OF THE ADOPTING PARENTS. INDIVIDUALS OVER 18 ARE FREE TO CHOOSE WHICH NATIONALITY THEY WILL TAKE. THE ADOPTING PARENTS MUST REGISTER THE JUDGMENT AT THEIR LOCAL CITY HALL OR MAGISTRATE WITHIN ONE MONTH OR THE ADOPTION IS NULL AND VOID.

11. THE ADOPTING PARENTS MUST SUBMIT COPIES OF THEIR OWN BIRTH CERTIFICATES, THE BIRTH CERTIFICATE OF THE PROSPECTIVE ADOPTEE, POLICE CERTIFICATES AND ATTESTATIONS OF GOOD CONDUCT FROM THEIR CITY HALL OR LOCAL EMBASSY OR CONSULATE IF NOT CONGOLESE.

12. THE DRC PERMITS INTERNATIONAL ADOPTION TO ALL COUNTRIES.

13. CONCLUSION: ADOPTIVE PARENTS APPLYING FOR VISAS FOR CHILDREN ADOPTED FROM CONGO SHOULD BE SURE TO PRESENT THE FOLLOWING THREE DOCUMENTS TO THE CONSULAR OFFICER: THE JUDGMENT OF ADOPTION; CERTIFICATE OF NO APPEAL; AND PROOF THAT THE ADOPTION JUDGMENT WAS REGISTERED IN THE "COMMUNE" (CITY HALL) WITH THE JURISDICTION OVER THE CHILD. NOTE: CERTIFICATES OF "GUARDIANSHIP," OFTEN USED IN CONGO, DO NOT CONSTITUTE A LEGAL ADOPTION.

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